after. The court also suggests that easements in gross are in many places held unassignable, indicating a lack of acquaintance with the New York authorities similar to that of the Appellate Division in *Matthews Slate Co. v. Advance Industrial Supply Co.* (1918) 185 App. Div. 74, 172 N. Y. Supp. 830; (1919) 29 YALE LAW JOURNAL, 218, 219.

SALES—WARRANTY—RUNNING WITH PERSONALTY.—The defendant traded a stallion to the plaintiff, representing that it was sound. The plaintiff traded it to W, making a similar representation. The stallion was in fact wind broken and W sued the plaintiff who notified the defendant to appear, which he failed to do. The plaintiff sued the defendant for the amount of the judgment which he paid W. The jury found that the stallion was sound when delivered by the defendant to the plaintiff. *Held,* that the plaintiff should not recover. *Booth v. Scheer* (1919, Kan.) 185 Pac. 898.

The finding of the jury rendered unnecessary the long discussion whether a warranty "runs with personalty." The accepted rule is that it does not. *Smith v. Williams* (1903) 117 Ga. 782, 45 S. E. 394. Except where there is an assignment of the right against the warrantor. *Cf. Bordwell v. Collie* (1871) 45 N. Y. 494; see Williston, *Sales* (1909) sec. 244. Or by trade custom, as in the case of a tobacco sampler's warranty. *Conestoga Cigar Co. v. Finke* (1891) 144 Pa. 159, 22 Atl. 868. Other seeming exceptions really "sound in tort." See COMMENT (1918) 27 YALE LAW JOURNAL, 1068.

TELEGRAPHS AND TELEPHONES—REGULATION MAKING COMPANY'S MESSENGER AGENT OF SENDER REASONABLE.—The plaintiff sued to recover damages caused by the defendant's failure to transmit and deliver a telegram addressed to him by A. The message was given by the sender to a messenger but was never delivered at the defendant's transmitting office. The company pleaded in defence the stipulation on the telegraph blank, a part of the contract, that "no responsibility attaches to this company concerning telegrams until same are accepted at one of its transmitting offices, and if the telegram is sent to such office by one of the company's messengers, he acts for that purpose as agent of the sender." *Held,* that recovery must be denied, the provision being reasonable and hence binding. *Collotta v. Western Union* (1920, Miss.) 83 So. 401.

The court followed the few cases which have decided this precise question. *Ayres v. Western Union* (1901) 65 App. Div. 149, 72 N. Y. Supp. 634; *Stamey v. Western Union* (1894) 92 Ga. 613, 18 S. E. 1008. For the effect of the company's limitation as to the amount of damages it will be under a duty to pay in case of nondelivery or error in an unrepeated message, see (1920) 29 YALE LAW JOURNAL, 573.

TORTS—NEGLIGENCE—LAST CLEAR CHANCE.—The decedent, a "licensee," while walking on the tracks of the defendant railroad, was struck and killed by a train. The engineer gave no signal of danger, and the inference was that he saw the decedent but expected her to get off the tracks. Her administrator sued for wrongful death. *Held,* that recovery should be allowed because the defendant had the last clear chance to avoid the injury. *Gunter's Adm'r v. Southern Ry.* (1920, Va.) 101 S. E. 885.

The opinion would seem to be somewhat confused in its application of the doctrine of last clear chance. See COMMENT (1915) 24 YALE LAW JOURNAL, 330; (1920) 29 *ibid.,* 542. However the decision can be explained by the fact that the defendant was under a duty to give some warning to those privileged to walk on its tracks, and that, therefore, the decedent was not negligent in relying upon performance of this duty.